

FILED

MAY 13 2008

Clerk, U.S. District and
Bankruptcy CourtsUNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GAIL BAER,

Plaintiff,

v.


U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Defendant.

Civil Action No. **08 0824**MEMORANDUM OPINION

Before the Court is plaintiff's complaint filed *pro se*, her application to proceed *in forma pauperis*, and her motion to appoint counsel. The application will be granted, the complaint dismissed, and the motion to appoint counsel denied as moot. The Court is required to dismiss a case "at any time if the court determines that . . . the action . . . fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2)(B)(ii).

Plaintiff sues the Equal Employment Opportunity Commission alleging that the decision of administrative law judge Joel Kravetz in denying her request for reconsideration in her complaint against her former employer, the Department of the Navy, constitutes an abuse of discretion and was based on a misapplication of the rules governing the process. "[N]o cause of action against the EEOC exists for challenges to its processing of a claim." *Smith v. Casellas*, 119 F.3d 33, 34 (D.C. Cir. 1997), *cert. denied*, 118 S.Ct. 386 (1997). Rather, "Congress intended the private right of action . . . under which an aggrieved employee may bring a Title VII action directly against his or her employer [] to serve as the remedy for any improper handling of a discrimination charge by the EEOC." *Id.* Accordingly, the complaint must be dismissed. A separate Order accompanies this Memorandum Opinion.

Date: 4/30/08
United States District Judge